

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 23086-81002  
 First Named Inventor: Alex Stenzler  
 Prior Application Information:  
 Serial No: 10/177,221  
 Examiner: Aaron J. Lewis  
 Art Unit: 3761

Mail Stop Patent Application  
 Commissioner for Patents  
 P.O. Box 1450  
 Washington, D. C. 20231

## FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☒ continuation    ☐ divisional    ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial  
 No. 10/177,221 filed on June 20, 2002 by

Alex Stenzler, entitled:

## PULMONARY DRUG DELIVERY DEVICE

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## I. APPLICATION ELEMENTS ENCLOSED

18 Page(s) of Written Description  
3 Page(s) of Claims  
1 Page(s) of Abstract  
3 Sheet(s) of Drawings    ☒ formal    ☐ informal  
       Page(s) of ☐ Declaration or ☐ Declaration and Power of Attorney  
       ☐ Copy from prior application [37 CFR §1.63(d)]  
       ☐ Newly executed  
X Other: Return Postcard

CERTIFICATE OF MAILING  
 (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Washington, D.C. 20231.

EL305242276US  
 Express Mail Label No.

July 17, 2003  
 Date of Deposit  
 LA1 520195v1

Shawn Austin  
 Name of Person Mailing Paper

Signature of Person Mailing Paper

16569 U.S. PTO  
 07/17/03

21907 U.S. PTO  
 10/622188  
 07/17/03

- ☐ Assignment papers (cover sheet and documents(s))
- ☐ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.
- ☐ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

**II. FEE CALCULATION**

- ☐ Applicant claims small entity status under 37 CFR 1.27.

|   |       |                 |   |                          |                  |
|---|-------|-----------------|---|--------------------------|------------------|
| <b>BASIC FILING FEE:</b>                      |       |                 |   |                          | \$750.00         |
| Total Claims                                  | -     | 20              | = | 0                        | x \$18.00 \$0.00 |
| Independent Claims                            | -     | 3               | = | 0                        | x \$84.00 \$0.00 |
| Multiple Dependent Claims                     | \$280 | (if applicable) |   | <input type="checkbox"/> | \$0.00           |
| <b>TOTAL OF ABOVE CALCULATIONS</b>            |       |                 |   |                          | \$0.00           |
| Reduction by 1/2 for Filing by Small Entity.  |       |                 |   | <input type="checkbox"/> | \$0.00           |
| Misc. Filing Fees (Recordation of Assignment) |       |                 |   |                          | \$0.00           |
| <b>TOTAL FEES DUE HERewith</b>                |       |                 |   |                          | \$0.00           |

**III. PRIORITY - 35 USC § 119**

- ☐ Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- ☐ The certified copy will follow.

**IV. AMENDMENTS**

- ☒ Cancel in this application original Claims 2-14 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**V. RELATE BACK - 35 USC § 120**

- ☒ Relate back information included in preliminary amendment or specification.
- ☐ Please amend the specification as follows:
- ☐ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:
- ☐ the same.
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:

**VI. METHOD OF PAYMENT OF FEES**

- ☐ Attached is a check in the amount of \_\_\_\_\_.
- ☐ Charge Sidley Austin Brown & Wood LLP's Deposit Account No. **50-1597** in the amount of \_\_\_\_\_.
- ☒ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

**VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit Sidley Austin Brown & Wood LLP's Deposit Account No. **50-1597** for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **50-1597**:

- ☐ 37 CFR § 1.16 (Filing fees and excess claims fees)
- ☐ 37 CFR § 1.17 (Application processing fees)
- ☐ 37 CFR § 1.21 (Assignment recordation fees)

**VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- ☐ The power appears in the original papers in the prior application.
- ☐ The power does not appear in the original papers, but was filed on \_\_\_\_\_ in prior application Serial No. \_\_\_\_\_.
- ☐ A new power has been executed and is attached.

Please send all correspondence to Customer Number 34492:

SIDLEY AUSTIN BROWN & WOOD LLP  
555 W. Fifth Street, Suite 4000  
Los Angeles, CA 90013  
Tel: (213) 896-6000  
Fax (213) 896-6600

Please direct all inquiries to Samuel N. Tiu, at the above Customer Number.

**IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until \_\_\_\_\_. A copy of the petition for extension of time in the **prior** application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

**X. ABANDONMENT OF PRIOR APPLICATION**

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

SIDLEY AUSTIN BROWN & WOOD LLP

Dated: \_\_\_\_\_

July 17, 2003

By: \_\_\_\_\_

Samuel N. Tiu  
Samuel N. Tiu  
Reg. No. 47,997